

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

EDGEWOOD HIGH SCHOOL)	
OF THE SACRED HEART, INC.,)	
)	
Plaintiff,)	Case No. 3:19-cv-683-wmc
)	
v.)	
)	
CITY OF MADISON, WISCONSIN, et al.)	
)	
Defendants.)	

STIPULATION

The parties in the above-captioned lawsuit, by and through their respective undersigned counsel, hereby stipulate and agree as follows:

WHEREAS, on August 21, 2019, Plaintiff Edgewood High School of the Sacred Heart, Inc. (“Edgewood”) filed a complaint (the “Complaint”) naming as defendants the City of Madison, Wisconsin (the “City”), Matthew Tucker, in his official capacity as the City’s Zoning Administrator (“Tucker”), George Hank, in his official capacity as Director of the City’s Building Inspection Division (“Hank”), and the City of Madison Zoning Board of Appeals (the “Zoning Board,” and together with the City, Tucker, and Hank, the “Defendants”);

WHEREAS, in the Complaint, Edgewood alleges, among other things, that Defendants violated the Equal Terms and Substantial Burden provisions of the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000cc(b)(1), the First Amendment to the United States Constitution (as incorporated by the Fourteenth Amendment to the United States Constitution), the Due Process Clause of the United States Constitution, and Article I Section 18 of the Wisconsin State Constitution, for actions Edgewood claims Defendants took to prevent Edgewood from using

its athletic field on its campus to host interscholastic sporting events and other activities related to the school's primary, religious mission;

WHEREAS, after service of the Complaint, the parties engaged in discussions concerning 1) sufficiency of service and Defendants' deadline to answer or otherwise plead, and 2) Edgewood's intent to file a motion for a preliminary injunction to stay Defendants' enforcement of contested zoning code provisions and the Notices of Violation that Zoning Administrator Tucker issued to Edgewood;

NOW THEREFORE, based upon the foregoing, the parties hereby stipulate and agree that:

1. Defendants, having accepted service of process, shall answer or otherwise respond to the Complaint no later than October 8, 2019, and shall waive any argument that service of the summons and the Complaint was insufficient, improper, or deficient.

2. Defendants stipulate and agree that they will not take any enforcement action against Edgewood pertaining to its use of its athletic field without first giving Edgewood 90 days' written notice of such action, and in no event shall Defendants issue such notice before October 15, 2019.

3. Edgewood reserves the right to seek immediate equitable and injunctive relief upon receipt of written notice of the kind described in Paragraph 2.

4. Defendants' non-enforcement commitment does not apply to any improvements or construction on or in connection with the use of the athletic field, such as the installation of lights or a sound system. Defendants agree that the non-enforcement commitment described in Paragraph 2 does apply to Edgewood's existing use of a portable PA system.

5. This Stipulation shall be without prejudice to any party, and each party reserves all of its rights, to challenge the merits of any claim or defense asserted in this lawsuit, to later seek

to amend, lift, dissolve, vacate, or otherwise reverse the Order, or to amend its pleading subject to Fed. R. Civ. P. 15.

STIPULATED AND AGREED THIS 17TH DAY OF SEPTEMBER, 2019 BY:

**Edgewood High School of
the Sacred Heart, Inc.**

**The City of Madison, the City of Madison
Zoning Board of Appeals, Matt Tucker (official
capacity) and George Hank (official capacity)**

By: /s/ Noel W. Sterett
As Counsel for Plaintiff

By: /s/ Barry J. Blonien
As Counsel for Defendants

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 17, 2019, a copy of the foregoing was served electronically, via CM/ECF, on all counsel of record.

/s/ Barry J. Blonien
Barry J. Blonien